

Before the
Federal Communications Commission
Washington, D.C. 20554

AUG 29 2007

In the Matter of)
)
Numbering Resource Optimization)
)
Implementation of the Local Competition)
Provisions of the Telecommunications Act of 1996)
)
Petition of the Idaho Public Utilities Commission)
for Delegated Authority to Implement Number)
Conservation Measures)
)
Petition of the Alabama Public Service)
Commission for Delegated Authority to Implement)
Number Conservation Measures)
)
Petition of the Public Service Commission of)
Wisconsin for Further Delegated Authority to)
Implement Number Conservation Measures)

CC Docket No. 99-200

CC Docket No. 96-98

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ORDER

Adopted: August 24, 2007

Released: August 24, 2007

By the Associate Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant petitions for delegated authority to implement mandatory thousands-block number pooling (pooling) filed by the Idaho Public Utilities Commission (Idaho Commission), the Alabama Public Service Commission (Alabama Commission), and the Public Service Commission of Wisconsin (Wisconsin Commission).¹ For the reasons discussed below, we find that the petitioners have demonstrated special circumstances justifying delegation of authority to require pooling. In granting

¹ See Petition of the Idaho Public Utilities Commission for Delegated Authority to Implement Number Conservation Measures, CC Docket Nos. 99-200, 96-98 (filed Mar. 29, 2007) (Idaho Petition); Petition of the Alabama Public Service Commission for Delegated Authority to Implement Number Conservation Measures, CC Docket No. 99-200 (filed May 1, 2007); Petition of the Public Service Commission of Wisconsin for Further Delegated Authority to Implement Number Conservation Measures, WC Docket No. 07-118, CC Docket Nos. 99-200, 96-98 (filed June 1, 2007); see also *Wireline Competition Bureau Seeks Comment on the Idaho Public Utilities Commission and the Alabama Public Service Commission Petitions for Delegation of Authority to Implement Number Conservation Measures*, CC Docket Nos. 99-200, 96-98, Public Notice, 22 FCC Rcd 10098 (2007); *Wireline Competition Bureau Seeks Comment on the Public Service Commission of Wisconsin Petition for Delegation of Authority to Implement Number Conservation Measures*, WC Docket No. 07-118, CC Docket No. 99-200, 96-98, Public Notice, 22 FCC Rcd 10323 (2007). Comments, addressing all three petitions, were filed by the National Telecommunications Cooperative Association (NTCA) (urging the Commission to continue its approach of specific numbering plan area analysis and to maintain the federal exemption for rural carriers who are not capable of providing local number portability) and the Public Service Commission of Wisconsin (supporting the requests by the Idaho and Alabama Commissions and requesting expedited Commission action on its own request).

these petitions, we permit these states to optimize numbering resources and further extend the life of the numbering plan areas (NPAs) in question. Specifically, we grant the following:

- To the Idaho Commission, the authority to implement mandatory pooling in the 208 NPA.
- To the Alabama Commission, the authority to implement mandatory pooling in the 256 NPA.
- To the Wisconsin Commission, the authority to implement mandatory pooling in the 715 and 920 NPAs.

II. BACKGROUND

2. *Commission Rules and Orders.* In the *NRO First Report and Order*, the Commission determined that implementation of pooling is essential to extending the life of the North American Numbering Plan (NANP) by making the assignment and use of NXX codes more efficient.² Therefore, the Commission adopted national pooling as a valuable mechanism to remedy the inefficient allocation and use of numbering resources and required pooling in the largest 100 Metropolitan Statistical Areas (MSAs) within nine months of selection of a pooling administrator.³ The Commission also allowed those state commissions that previously had been delegated authority to implement pooling to continue to do so.⁴ The Commission stated that it would continue to consider state petitions for delegated authority to implement pooling outside the top 100 MSAs on a case-by-case basis.⁵ The Commission delegated authority to the Common Carrier Bureau, now the Wireline Competition Bureau (Bureau), to rule on state petitions for delegated authority to implement number conservation measures, including pooling, where no new issues are raised.⁶

3. The Commission said that state petitions for delegated authority to implement pooling must demonstrate that: (1) an NPA in the state is in jeopardy; (2) the NPA in question has a remaining life span of at least one year; and (3) the NPA is in one of the largest 100 MSAs or, alternatively, the

² *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7625, para. 122 (2000) (*NRO First Report and Order*). The NANP was established over 50 years ago by AT&T to facilitate the expansion of long distance calling. The NANP, the basic numbering scheme for the United States, Canada, and most Caribbean countries, is based on a 10-digit dialing pattern, NPA-NXX-XXXX, where N represents any digit from 2 through 9 and X represents any digit from 0 through 9. Pooling is a numbering resource optimization measure in which 10,000 numbers in an NXX are divided into ten sequential blocks of 1,000 numbers and allocated to different service providers (or different switches) within a rate center. See *Numbering Resource Optimization*, CC Docket Nos. 99-200, 95-116, Fourth Report and Order, 18 FCC Rcd 12472, 12474, para. 5 (2003) (*NRO Fourth Report and Order*).

³ See *NRO First Report and Order*, 15 FCC Rcd at 7625, 7644-45, paras. 122, 157-158. MSAs, designated by the Bureau of Census, follow geographic borders and are defined using statistics that are widely recognized as indicative of metropolitan character. See *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Memorandum Opinion and Order, 12 FCC Rcd 8115, 8122, para. 17 n.26 (1997).

⁴ Section 251(e)(1) of the Communications Act of 1934, as amended (Act), allows the Commission to delegate to state commissions jurisdiction over numbering administration. 47 U.S.C. § 251(e)(1).

⁵ See *NRO First Report and Order*, 15 FCC Rcd at 7651, para. 169. At the time the *NRO First Report and Order* was adopted, several states already had delegated authority to implement pooling and several more states had petitions pending with the Commission. *Id.* The Commission observed that the national pooling framework, when adopted, would supersede the interim delegations of authority to state commissions. *Id.*

⁶ See *NRO First Report and Order*, 15 FCC Rcd at 7651-52, para. 170.

majority of wireline carriers in the NPA are local number portability (LNP)-capable.⁷ The Commission, however, recognized that there may be “special circumstances” where pooling would be of benefit in NPAs that do not meet all three criteria and said that pooling may be authorized in such an NPA upon a satisfactory showing by the state commission of such special circumstances.⁸

4. *The Petitions.* Between March 29, 2007 and June 1, 2007, the Commission received three petitions from state commissions requesting permission to expand the scope of pooling. Each petitioner asserts that it has met, or can meet, the criteria for delegation of authority to implement pooling established by the Commission in the *NRO First Report and Order*, and that, in addition, special circumstances exist to justify such delegation.⁹ Accordingly, the state petitioners conclude that delegation of authority to implement mandatory pooling will prolong the lives of their respective NPAs.

III. DISCUSSION

5. Based upon the record, we grant petitions for delegated authority to implement mandatory pooling filed by the Idaho Commission, the Alabama Commission and the Wisconsin Commission. Although all three criteria referenced above are not met in these petitions, we find that in each case special circumstances justify delegation of authority to require pooling.

6. *Pooling Authority Criteria.* First, we note that although petitioners assert that the Commission’s criteria for pooling have been met,¹⁰ none of the petitions before us present jeopardy situations as defined by industry standards and officially declared by the North American Numbering Plan Administration (NANPA).¹¹ Therefore, this criterion for delegation of authority has not been satisfied.

7. Second, we find that the record demonstrates that the NPAs in question all have a remaining life span of at least one year. Specifically, the 208 NPA in Idaho is projected to exhaust on or about the second quarter of 2010;¹² the 256 NPA in Alabama in the fourth quarter of 2010¹³ and the 715

⁷ See *id.* These three criteria were adopted before implementation of nationwide pooling and before the Commission recognized that full LNP capability is not necessary for participation in pooling. See *NRO Fourth Report and Order*, 18 FCC Rcd at 12476, para. 11 (recognizing that full LNP capability is not necessary for participation in pooling but the underlying architecture, Location Routing Number (LRN), must be deployed); see also *Numbering Resource Optimization*, CC Docket No. 99-200, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252, 262, para. 21 n.47 (2001) (*NRO Third Report and Order*). In the *NRO Third Report and Order*, the Commission rejected a request to delegate authority to the states to determine on a case-by-case basis whether to extend pooling requirements. *NRO Third Report and Order*, 17 FCC Rcd at 262, para. 21. The Commission explained that uniform national standards for pooling are necessary to minimize confusion and additional expense related to compliance with inconsistent regulatory requirements. *Id.*

⁸ See *NRO First Report and Order*, 15 FCC Rcd at 7651-52, para. 170.

⁹ Idaho Petition at 3; Alabama Petition at 4; Wisconsin Petition at 4.

¹⁰ Idaho Petition at 3; Alabama Petition at 4; Wisconsin Petition at 3-4.

¹¹ The NPA Code Relief Planning and Notification Guidelines (ATIS-0300061) define a jeopardy NPA as existing “when the forecasted and/or actual demand for CO Code resources will exceed the known supply during the planning/implementation interval for relief. Accordingly, pending exhaust of CO Code resources within an NPA does not represent a jeopardy condition if NPA relief has been or can be planned and the additional CO Codes associated with the NPA will be implemented in time to satisfy the need for new CO codes.” See NPA Code Relief Planning and Notification Guidelines (ATIS 03-0061) §15.0 at 22; see also NANPA Publications – Jeopardy Procedures (visited June 15, 2007) http://www.nanpa.com/news/jeopardy_declaration_table.html.

¹² Idaho Petition at 3.

¹³ Alabama Petition at 3.

and 920 NPAs in Wisconsin in the fourth quarter of 2009 and the second quarter of 2010, respectively.¹⁴ Thus, the second prong of the test is satisfied.

8. Third, the petitioners assert that the vast majority, or all, of the providers within their respective NPAs are currently LNP-capable,¹⁵ and data from the Local Exchange Routing Guide confirms these assertions.¹⁶ Accordingly, the third criterion is met.

9. Thus, we conclude that petitioners have not met all the Commission's criteria for delegation of authority to implement pooling. However, we find that special circumstances exist such that pooling has the potential to be beneficial in the requested NPAs, and that delegation of pooling authority is therefore justified.

10. *Special Circumstances Showing.* Petitioners demonstrate that the NPAs in question are experiencing an increase in demand for numbering resources and have low utilization rates. The Idaho Commission reports an increase in demand for full NXX codes in rural areas and an optional pooling mechanism that is underutilized by carriers.¹⁷ It also reports a utilization rate for the state's sole NPA of 42.2 percent, creating concerns that thousands of numbers will be stranded in rural areas.¹⁸ Similarly, the Alabama Commission reports an increase in demand for full NXX codes at an unanticipated rate, coupled with a utilization rate of 41 percent.¹⁹ In addition to low utilization rates and significant quantities of unassigned telephone numbers,²⁰ the Wisconsin Commission reports a "coincidental" exhaust of two adjacent NPAs that could create significant customer confusion, and concerns involving 911 call routing, Advanced Intelligent Network (AIN) programming changes, complex permissive dialing arrangements and trunking.²¹

11. We conclude that denying these petitions would allow carriers to continue to request 10,000 blocks of numbers when fewer numbers may be needed to serve their customers, which would further hasten the exhaust of these NPAs. Furthermore, given that all the NPAs in question are expected to exhaust within the next five years, it is most efficient and in the public interest to permit the state petitioners to implement mandatory pooling at this time for these NPAs.²² We find that a denial of the petitions with respect to these specified NPAs would be an inefficient use of resources since the state commissions would have to refile the petitions in the near future.²³ We believe that strict application of the jeopardy requirement would only further delay the state commissions' ability to optimize numbering

¹⁴ Wisconsin Petition at 3-4.

¹⁵ Idaho Petition at 3; Alabama Petition at 3; Wisconsin Petition at 4.

¹⁶ See Traffic Routing Administration, *Local Exchange Routing Guide* (updated July 1, 2007).

¹⁷ Idaho Petition at 2-3.

¹⁸ *Id.* at 3.

¹⁹ Alabama Petition at 3.

²⁰ The 715 NPA has a utilization rate of 29.3 percent and the 920 NPA a rate of 28.3 percent. Wisconsin Petition at n. 12.

²¹ Wisconsin Petition at 4-5.

²² See *Second Pooling Expansion Order*, 21 FCC Red at 13193, para. 11.

²³ See *First Pooling Expansion Order*, 21 FCC Red at 1837, para. 10; *Second Pooling Expansion Order*, 21 FCC Red at 13193, para. 11.

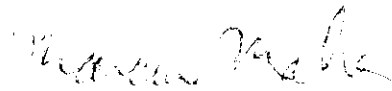
resources in pressing circumstances.²⁴ Thus, we find, these are special circumstances that justify delegation of authority to these states to implement mandatory pooling.

12. We agree with NTCA that exemptions for rural telephone companies continue to be appropriate in the expansion of pooling.²⁵ We therefore require that petitioners, in exercising the pooling authority delegated in this Order, implement this delegation consistent with the federal exemption from the *NRO Fourth Report and Order* for rural telephone companies. Accordingly, we expect that rural carriers that are not LNP-capable will not be required to implement pooling solely as a result of the delegation of authority set forth in this Order.

IV. ORDERING CLAUSES

13. ACCORDINGLY, pursuant to the authority contained in sections 1, 4(i), and 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, and sections 0.91, 0.291 and 52.9(b) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 52.9(b), IT IS ORDERED that the following petitions ARE GRANTED to the extent discussed herein: Petition of the Idaho Public Utilities Commission for Delegated Authority to Implement Number Conservation Measures; Petition of the Alabama Public Service Commission for Delegated Authority to Implement Number Conservation Measures; and Petition of the Public Service Commission of Wisconsin for Further Delegated Authority to Implement Number Conservation Measures.

FEDERAL COMMUNICATIONS COMMISSION



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²⁴ See *First Pooling Expansion Order*, 21 FCC Red at 1837-38, para. 10; *Second Pooling Expansion Order*, 21 FCC Red at 13193, para. 11.

²⁵ See NTCA Comments at 5-6; see also Alabama Petition at 3; cf. *Third Pooling Expansion Order*, 22 FCC Red 10095-96, para. 9.